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District Judge Sides With CFPB, Upholds Payday Rule's Payment Provisions

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On August 31, 2021, a federal district court judge in Texas granted summary judgment to the Consumer Financial Protection Bureau in a lawsuit brought by two industry trade associations, ultimately upholding the "payment provisions" of the CFPB's Payday, Vehicle Title, and Certain High-Cost Installment Loans Rule (CFPB Payday Rule) first issued in November 2017.

As explained in a previous client alert covering the lawsuit's three-year history, the trade groups sought to prevent implementation of the payment provisions of the CFPB's Payday Rule. The groups argued that such provisions were unlawful because the ratification of the CFPB Payday Rule by the CFPB's director was inadequate, and the provisions fell outside of the CFPB's legal authority. The judge rejected all of the trade associations' challenges, noting that the payment provisions were not void *ab initio* and that a constitutionally appointed director had properly ratified the provisions. The court also rejected the associations' argument that the CFPB had incorrectly determined that the payment practices the provisions address are unfair and/or abusive. The court agreed that the CFPB had to consider only important aspects of the problem for its cost-benefit analysis of the provisions to pass muster.

In addition, the court rejected the associations' argument that the CFPB had unreasonably denied a rulemaking petition to exclude debit card payments from the payment provisions, concluding that the CFPB needed only a rational basis to reject such an exception. Finally, the court rejected the associations' attempt to argue that the CFPB's structure was otherwise unconstitutional under the Appropriations Clause.

The judge rejected the CFPB's request to lift the stay on compliance within 30 days after entry of judgment, and granted an extended compliance timeline for lenders of "286 days after final judgment," or June 2022, giving lenders more time to prepare for the CFPB Payday Rule's implementation.

Given these developments, lenders should begin familiarizing themselves with the CFPB Payday Rule's payment provisions to prepare for compliance by June 2022.

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